

## SENATE BILL No. 464

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 27-4.

**Synopsis:** Motor vehicle repairs. Specifies certain requirements for insurers concerning covered motor vehicle repairs.

**Effective:** July 1, 2005.

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**Steele**

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January 18, 2005, read first time and referred to Committee on Commerce and Transportation.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

## SENATE BILL No. 464

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 27-4-1-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.5. The following are unfair claim settlement practices:

(1) Misrepresenting pertinent facts or insurance policy provisions relating to coverages at issue.

(2) Failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies.

(3) Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies.

(4) Refusing to pay claims without conducting a reasonable investigation based upon all available information.

(5) Failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed.

(6) Not attempting in good faith to effectuate prompt, fair, and equitable settlements of claims in which liability has become



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reasonably clear.

(7) Compelling insureds to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in actions brought by such insureds.

(8) Attempting to settle a claim for less than the amount to which a reasonable individual would have believed the individual was entitled by reference to written or printed advertising material accompanying or made part of an application.

(9) Attempting to settle claims on the basis of an application that was altered without notice to or knowledge or consent of the insured.

(10) Making claims payments to insureds or beneficiaries not accompanied by a statement setting forth the coverage under which the payments are being made.

(11) Making known to insureds or claimants a policy of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration.

(12) Delaying the investigation or payment of claims by requiring an insured, a claimant, or the physician of either to submit a preliminary claim report and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information.

(13) Failing to promptly settle claims, where liability has become reasonably clear, under one (1) portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage.

(14) Failing to promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement.

(15) In negotiations concerning liability insurance claims, ascribing a percentage of fault to a person seeking to recover from an insured party, in spite of an obvious absence of fault on the part of that person.

(16) The unfair claims settlement practices ~~defined~~ **described** in IC 27-4-1.5 **and IC 27-4-1.6.**

SECTION 2. IC 27-4-1.6 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

**Chapter 1.6. Motor Vehicle Repairs**

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1       **Sec. 1. As used in this chapter, "insurer" has the meaning set**  
 2       **forth in IC 27-1-2-3(x).**

3       **Sec. 2. As used in this chapter, "motor vehicle" has the meaning**  
 4       **set forth in IC 9-13-2-105(a).**

5       **Sec. 3. As used in this chapter, "repair business" means a**  
 6       **business that repairs motor vehicles.**

7       **Sec. 4. An insurer that is obligated to pay any part of the cost of**  
 8       **repairing a motor vehicle under an insurance policy issued by the**  
 9       **insurer shall not:**

10       (1) **require that an appraisal or a repair to the motor vehicle**  
 11       **be made or not be made by a particular repair business;**

12       (2) **represent to a claimant that the use of or failure to use a**  
 13       **particular repair business may result in the nonpayment or**  
 14       **delay in payment of a claim;**

15       (3) **intimidate, coerce, threaten, induce by incentive or**  
 16       **misinformation, or use a disincentive to discourage a claimant**  
 17       **concerning the use of a particular repair business;**

18       (4) **contract with a person to manage or arrange motor**  
 19       **vehicle repairs or act as an agent for the insurer:**

20           (A) **on the condition that a certain repair business do**  
 21           **claims work for the insurer at a price established by the**  
 22           **insurer; and**

23           (B) **if the person retains a percentage of any amount paid**  
 24           **by the insurer under the insurance policy for motor vehicle**  
 25           **repairs; or**

26       (5) **solicit or accept a referral fee or compensation in exchange**  
 27       **for referring a claimant to a repair business.**

28       **Sec. 5. An insurer that is obligated to pay any part of the cost of**  
 29       **repairing a motor vehicle under an insurance policy issued by the**  
 30       **insurer shall:**

31       (1) **provide notice of the requirements of this chapter to the**  
 32       **claimant not later than three (3) business days after a claim is**  
 33       **made;**

34       (2) **disclose to a claimant that the claimant may choose any**  
 35       **repair business;**

36       (3) **ensure that an estimate:**

37           (A) **prepared by or for the insurer; and**

38           (B) **covering damage that is evident at the time of**  
 39           **inspection of the motor vehicle;**

40       **is adequate to restore the motor vehicle to the motor vehicle's**  
 41       **condition before the loss, according to the terms of the**  
 42       **insurance policy, within a reasonable time;**

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(4) provide to the claimant a copy of an estimate:

(A) prepared by or for the insurer; and

(B) on which a settlement of a partial loss is based; and

(5) promptly pay, according to the terms of the insurance policy, a claim for motor vehicle repair services and products in an amount that is not less than the prevailing competitive market price in the geographic area as established by:

(A) competitive bidding;

(B) generally accepted insurer based methodology; or

(C) market surveys that determine a fair and reasonable market price for similar services and products.

**Sec. 6. This chapter does not prohibit an insurer from providing to a claimant a list of repair businesses that are located near the claimant or that meet or exceed industry standards of quality, service, or safety. However, if the insurer:**

(1) provides a list described in this section; and

(2) has an ownership interest in or affiliation with a repair business on the list;

**the insurer shall disclose the ownership interest or affiliation to the claimant at the time that the list is provided.**

**Sec. 7. A violation of this chapter is an unfair claim settlement practice under IC 27-4-1-4.5.**

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